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**State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT**

<p>Counsel For The State Bar</p> <p>Blithe C. Leece Senior Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 (213) 765-1236</p> <p>Bar # 202208</p>	<p>Case Number(s): 08-C-14308</p>	<p>For Court use only</p> <p align="center">PUBLIC MATTER</p> <p align="center">FILED <i>Rz</i></p> <p align="center">AUG 01 2012</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p> <p align="center">kwiktag® 152 140 331</p> 
<p>Counsel For Respondent</p> <p>David C. Carr 3333 Camino del Rio South, Suite 215 San Diego, CA 92108 (619) 696-0526</p> <p>Bar # 124510</p>	<p>Submitted to:</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: FREDERICK JOHN STOCKER</p> <p>Bar # 106382</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 12, 1982.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (10) pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."



- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See pg. 7
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. See pg. X
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct. See page 7
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct. See pgs. 7-8
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

(Effective January 1, 2011)

Disbarment

Additional mitigating circumstances:

Although the present misconduct is deemed serious, Respondent has no prior record of discipline.

Respondent displayed spontaneous candor and cooperation with the State Bar in its investigation and in these proceedings.

Respondent attended Lawyer's Assistance Program meetings for over three years and successfully completed the program. While in LAP, Respondent actively used this program to further his own rehabilitation by helping to rehabilitate others. Respondent completed a rigorous four year program of specialized treatment. Respondent has taken a leadership role in twelve step recovery by conducting outreach, service activities, and serving as a sponsor for several individuals. Respondent conducts outreach activities that include presentations to therapy groups concerning recovery from compulsive behavior.

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: FREDERICK JOHN STOCKER MEMBER # 106382

CASE NUMBER(S): 08-C-14308

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes.

Facts:

1. On July 15, 2005, the in-house systems administration staff of the law firm where Respondent worked began receiving numerous virus alerts on their network. They discovered that the alerts were related to an unusually active network connection belonging to Respondent involving his downloading of a large number of pornographic images, a portion of which were child pornography, from the internet to his company computer.
2. On July 18, 2005, the law firm contacted law enforcement.
3. On July 19, 2005, the law firm terminated Respondent based on their discoveries and Respondent's admissions.
4. As a result of a criminal investigation, the defendant was charged with 55 misdemeanor counts of being in possession of child pornography in violation of Penal Code §311.11(a) in case M995133. On July 2, 2008, Respondent pled guilty to one count of violation Penal Code §311.11(a). Respondent's misconduct was limited to the downloading of images of child pornography from the internet. Respondent did not purchase, post, transmit, or exchange any images of the child pornography he viewed. Respondent did not have any contact with children either in person, on line, or via chat rooms.
5. Respondent was sentenced on the same day to three years formal probation; 30 days county jail; fines/fees totaling \$950.00; 60 days Public Service Program/volunteer work; a Fourth Amendment waiver; and registration as a sex offender pursuant to Penal Code §290.
6. On July 2, 2009, the San Diego County Superior Court found Respondent had complied with his probation conditions, and reduced his probation from formal to summary. Respondent's criminal conviction was expunged on October 17, 2011. However, Respondent must abide by the registration requirements of Penal Code Section 290.

Conclusions of Law:

The facts and circumstances surrounding Respondent's misdemeanor conviction for willfully violating Penal Code section 311.11(a) (Possession of Child Pornography) do involve moral turpitude, and constitute other misconduct warranting discipline pursuant to Business and Professions Code sections 6101 and 6102.

AGGRAVATING CIRCUMSTANCES

B(4) Harm: Possessing child pornography supports an industry that victimizes and exploits children; destroys their innocence and lives for profit and personal arousal; and undermines the moral fabric of our society. The affect of the harm occurs throughout the child's life, and harms society as a whole.

MITIGATING CIRCUMSTANCES

C(4) Remorse: Respondent promptly took objective steps which demonstrate remorse and recognition of the wrongdoing. Respondent almost immediately commenced participation in a 12 step program for sexually compulsive behaviour. In August 2005, a month after the incident, he admitted himself in a two week intensive outpatient sexual recovery program. On September 6, 2005, he entered a five week, out of state, inpatient program for sexually compulsive behaviour. He successfully completed the program and was discharged on October 10, 2005. Since that time Respondent has continued to participate in ongoing therapy; to comply with treatment recommendations; and successfully completed his treatment program. Respondent regularly attends appropriate 12 step meetings, and is active as a sponsor to others in recovery.

C(11) Good Character: Respondent's good character is attested to in a wide range of references in the legal and general communities who are aware of the full extent of his misconduct.

An attorney and neighbour of Respondent who has known him for 11 years "would trust him with anything and everything...and has a "very positive opinion of [his] character.

A twenty-five year friend for whom Respondent has also given legal advice and performed services has "the utmost respect and highest regard for [his] character."

A twenty-five year friend for whom Respondent has also given legal advice and performed services has "a very positive opinion of [his] character."

A long-time friend, former client, and the best man at Respondent's wedding states that Respondent "has consistently demonstrated a high level of integrity" and is "very caring and honest."

A fellow member of Respondent's 12 step recovery group, who has known Respondent for four years and whom Respondent sponsors, considers Respondent his "trusted friend".

A fellow attorney who has known Respondent for twenty years has “the highest regard for [him]”, and believes that [he] “possesses good moral character.”

An attorney who has known Respondent for twenty years and managing partner of the law firm where Respondent worked at the time of the incident finds that Respondent “displayed the highest respect for the obligations of a lawyer, and he evinced an understanding of the need for integrity in discharging his professional obligation [and] has been honest, civil, sensitive, and thoughtful.”

Respondent’s sister-in-law has “great respect for the way in which [Respondent] has responded to the situation.” She finds him “responsible, extremely intelligent, funny, caring, generous, a doting father, and without guile.”

The lead minister in his church has a “positive opinion of [Respondent’s] character”.

A four year close friend has a “very positive opinion of [Respondent’s] character”.

A fifteen year friend has never “doubted his integrity or moral character”.

A four year close friend and person whom Respondent sponsors in his 12 step group holds Respondent “in extremely high regard.”

A fifteen year friend “is absolutely convinced that [Respondent] is an upstanding member of every community he decides to participate in.”

Community Involvement:

In 1992 the San Diego County Board of Supervisors recognized Respondent’s “special contribution to the preservation of the Mount Helix Cross site as East County’s most prominent historical landmark.”

From 1999 until 2003 Respondent provided pro bono legal advice to the San Diego Futures Foundations, a provider of technology to the non-profit community.

AUTHORITIES SUPPORTING DISCIPLINE.

1. Standards

Standard 3.2 provides final conviction of a member of a crime which involves moral turpitude, either inherently or in the facts and circumstances surrounding the crime’s commission shall result in disbarment. Only if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a two-year actual suspension, prospective to any interim suspension imposed, irrespective of mitigating circumstances.

Here, the Respondent was convicted of possessing child pornography in violation of Penal Code section 311.11(a). The Respondent possessed child pornography on his work computer at his law firm. The facts and circumstances involved in Respondent's conviction for possessing child pornography involve moral turpitude and compelling mitigation does not predominate; thus, disbarment is the proper level of discipline.

2. Case Law

An attorney whose conduct is found to involve moral turpitude characterizes the attorney as unsuitable to practice law. *See, In the Matter of Respondent O* (Review Dept. 1993) 2 Cal State Bar Ct. Rptr. 581.

"[I]n attorney disciplinary proceedings the term "moral turpitude" must be defined in a way that is relevant to an attorney's fitness to practice. *In re Lesansky*, (2001) 25 Cal. 4th 11, 15. "Attorney discipline is imposed when necessary 'to protect the public, to promote confidence in the legal system, and to maintain high professional standards' ...and the term 'moral turpitude' is defined by reference to this purpose. *Id.* at 16. *Leskansky* further defines criminal conduct amounting to moral turpitude not committed in relation to the practice of law "if it shows a deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of duty owed another or society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney's conduct would be likely to undermine public confidence in and respect for the legal profession." *Id.* at 16.

Clearly, Respondent's criminal conviction for possession of child pornography on his work computer at his law firm is criminal conduct involving moral turpitude. Respondent's conduct would likely undermine public confidence and respect for the legal profession as his conduct seriously breached the duty owed to society and was flagrantly disrespectful for the law and societal norms. Thus consistent with the standards, disbarment is the appropriate discipline level to impose in this matter.

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(7) is July 3, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

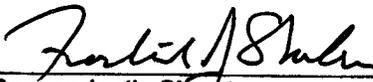
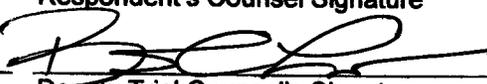
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of June 28, 2012, the prosecution costs in this matter are \$1636.00. Respondent acknowledges that this figure is an estimate only. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted the costs in this matter may increase due to the costs of further proceedings.

(Do not write above this line.)

In the Matter of: FREDERICK JOHN STOCKER	Case number(s): 08-C-14308
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

Date	<u>7/6/2012</u>	<u></u>	<u>Frederick J. Stocker</u>
		Respondent's Signature	Print Name
Date	<u>7/9/2012</u>	<u></u>	<u>DAVID CAMERON CARR</u>
		Respondent's Counsel Signature	Print Name
Date	<u>7/11/2012</u>	<u></u>	<u>Britte Cravens Leece</u>
		Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:
FREDERICK JOHN STOCKER

Case Number(s):
08-C-14308

DISBARMENT ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

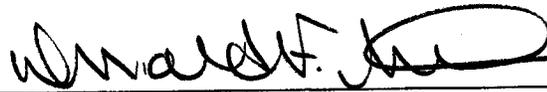
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

7/31/12

Date



DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on August 1, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

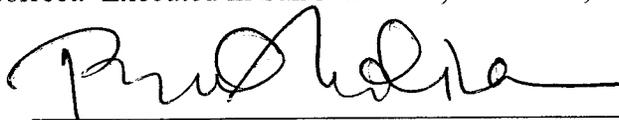
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DAVID C. CARR
LAW OFFICE OF DAVID CAMERON CARR
530 B ST STE 1410
SAN DIEGO, CA 92101

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

BLITHE C. LEECE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 1, 2012.



Bernadette C.O. Molina
Case Administrator
State Bar Court